

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

WILLIE JAMES LOWE, JR.,

Plaintiff,

v.

PATRICK JAMES, et al.,

Defendants.

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No. 1:23 CV 90 MTS

MEMORANDUM AND ORDER

Self-represented Plaintiff Willie James Lowe, Jr. is on supervised released for federal crimes sentenced out of the United States District Court of the Southern District of Alabama. He is currently detained at the Ste Genevieve Detention Center in Ste Genevieve, Missouri. He brings this civil action against the United States of America, multiple U.S. Marshalls and U.S. Probation Officers, employees of the Federal Bureau of Prisons (“FBOP”), and employees of the Southeast Missouri Behavioral Health Center. The matter is now before the Court upon the motions of Plaintiff for leave to proceed *in forma pauperis*, or without prepayment of the required filing fees and costs. Docs. [2] and [2-1]. Because Plaintiff’s motions do not comply with the Local Rules of this Court or the federal statute under which they may be granted, the Court will direct Plaintiff to file an amended motion or pay the full filing fee. The Court warns Plaintiff that his failure to comply with this Order will result in dismissal of this action.

Under the Local Rules of this Court: “An application to proceed in forma pauperis shall be accompanied by a statement of the applicant’s financial information set forth on a form provided by the Court. The Court may require the submission of additional information in a particular case.” E.D. Mo. L.R. 2.05(A). Additionally, under the Local Rules, the Clerk can return any complaint

submitted for filing *in forma pauperis* which is not accompanied by an affidavit as required by 28 U.S.C. § 1915(a). E.D. Mo. L.R. 2.05(C).

The Court may authorize the commencement or prosecution of a civil action without prepayment of fees if the plaintiff demonstrates he or she “is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). *In forma pauperis* status is a matter of privilege, not of right. *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987). To enjoy the statute’s benefits, a litigant need not show that he is “absolutely destitute,” but he must demonstrate that, because of his poverty, he cannot pay for the litigation costs and still be able to provide for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948); *see also Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000).

In this case, the Court cannot assess whether Plaintiff should be granted *in forma pauperis* status because he has not provided the Court with complete answers to all the form questions on either of the filed motions. Plaintiff states in his pleadings that until his recent arrest, he was employed and earning income at “Proffers Produce.” Docs. [1] at 11 and [2] at 1. He explains that he is scheduled to be released from FBOP custody on June 14, 2023. Doc. [1] at 10. On both of his Applications to Proceed in District Court without Prepaying Fees or Costs, Plaintiff states that he has received income in the last 12 months, but he does not “describe ... each source of money and state the amount ... received.” Docs. [2] at 1 and [2-1] at 1. Furthermore, on one motion, in response to the question regarding the amount of money that Plaintiff currently has, he simply writes “N/A.” Doc. [2-1] at 2. Since Plaintiff is incarcerated, he should include with his motion a certified account statement from his place of incarceration showing account activity over the last six-month period. *See* Doc. [2] at 1. Plaintiff writes on his motion that he has not been at his current place of incarceration for six months. Doc. [2-1] at 1. However, Plaintiff should still

submit an account statement showing his current balance. Without any of the form income information or the balance from an account statement, the Court cannot determine whether Plaintiff should be granted *in forma pauperis* status. Plaintiff must either provide the required financial information on a complete ‘Application to Proceed in District Court without Prepaying Fees or Costs’ with a certified account statement or pay the full filing fee in order for this case to proceed.

Accordingly,

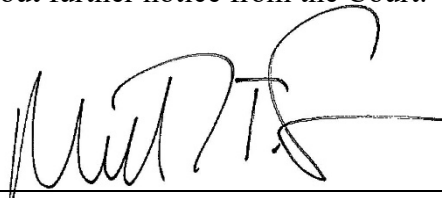
IT IS HEREBY ORDERED that the Clerk is directed to send Plaintiff a blank ‘Application to Proceed in District Court without Prepaying Fees or Costs’ form.

IT IS FURTHER ORDERED that Plaintiff must either pay the full filing fee or submit the completed Application in accordance with the instructions set forth herein, within **twenty-one (21) days** of the date of this Order.

IT IS FURTHER ORDERED that if Plaintiff files a completed Application, he must also file a certified copy of his prison account statement for the six-month period preceding the filing of the complaint.

IT IS FINALLY ORDERED that if Plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice from the Court.

Dated this 1st day of June, 2023.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE